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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,229	04/06/2001	Zvia Agur	Q63893	7712

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EXAMINER

MORAN, MARJORIE A

ART UNIT PAPER NUMBER

1631

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/827,229

Applicant(s)

AGUR ET AL.

Examiner

Marjorie A. Moran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3/17/05.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 66-91, 98, 99, 101-113, 115-117, 332-340 and 347-349 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 66-91, 101-113, 115, 116 and 332-340 is/are allowed.
- 6) ☒ Claim(s) 98, 99, 117 and 347-349 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. Claims 66-91, 98-99, 101-113, 115-117, 332-340, and 347-349 are pending.

***Claim Objections***

The objections to claims 79, 101 and 105 are hereby withdrawn in view of the amendment filed 3/17/05.

***Claim Rejections - 35 USC § 103***

Claims 98-99, 117, and 347-349 are again rejected under 35 U.S.C. 103(a) as being unpatentable over WICHMANN et al. (Cell Tissue Kinetics (1979) vol. 12, pp. 551-567) in view of THOMAS (US 5,879,673).

Applicant's arguments filed 3/17/05 have been fully considered but they are not persuasive. In response to applicant's arguments that the limitations of claims 98, 117, and 347 were previously found free of the prior art, it is noted that these were claims have never been indicated to be allowable. The claims previously recited limitations wherein prior art was not applicable. However, the pending claims were amended on 8/18/04, resulting in claim limitations which are made obvious by the prior art. Specifically, claims 98 and 347 were amended to recite "effects of" administration of TPO". Claim 117 was amended to remove a limitation for selecting treatment "based on the modified system model." Previous office actions clearly indicated that claim 98 was interpreted to be reciting a physical step of TPO administration. Claim 347 was added in the amendment of 5/18/04 and recited a limitation similar to that of claim 98. As a

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model or system (i.e. apparatus) which comprises a physical method step does not make sense, these claims were rejected under 35 USC 112, but not under 35 USC 102 or 103. A system model comprising a modifier which modifies the system model based on parameters specific to an individual (e.g. as recited in claim 66) is free of the prior art, as previously indicated and reiterated below; however, claim 117 no longer recites any limitation with regard to modification based on individual parameters, as set forth above.

Applicant has not presented any arguments specific to the rejections of the *now pending claims* set forth in the most recent office action of 11/17/04. As set forth in that office action, WICHMANN and THOMAS make obvious a system and method to predict thrombopoietic lineage in a human. As the claims have not been amended, and no arguments to overcome the instant rejection has been set forth in the response, the rejection is maintained.

### ***Allowable Subject Matter***

The following is an examiner's statement of reasons for allowance.

The prior art does not teach or fairly suggest a model or system for modeling thrombopoietic lineage in an individual comprising a process model for cells involved in thrombopoiesis wherein the process model is modified based on parameters specific to the individual, as recited in claims 66 and 332. The prior art does not teach or fairly suggest a system or method for modeling thrombopoietic lineage in a general human

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patient wherein a process model comprises the particular compartments recited in claim 101, or wherein cells pass between compartments each hour, as in claim 115.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Claims 66-91, 101-113, 115-116, and 332-340 are allowed and claims 98-99, 117, 347-349 are rejected.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marjorie A. Moran whose telephone number is (571)

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272-0720. The examiner can normally be reached on Mon,Wed: 7-1:30; Tue,Thur:  
7:30-6; Fri 7-3:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel can be reached on (571)272-0718. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marjorie A. Moran  
Primary Examiner  
Art Unit 1631

*Marjorie A. Moran*  
6/8/05